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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,039	09/29/2003	Chris A. Wolfe	010188D1	2589
23696	7590	05/19/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			JEANTY, ROMAIN	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/674,039

**Applicant(s)**

WOLFE ET AL.

**Examiner**

Romain Jeanty

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **Response to Amendment**

1. Applicant's amendment received on January 19, 2005 is acknowledged and entered. No claims were canceled or added. Claims 1-12 are pending in the application for examination.

### **Response to Arguments**

2. Applicant's arguments with respect to claim 1-12 have been considered but are moot in view of the new ground(s) of rejection.

### **Claim Rejections - 35 USC § 101**

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-2, and 7-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts of:
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, invoice, use, or advance the technological arts fail to promote the

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“progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

Furthermore, mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

While claims 1-2 and 7-8 produce a useful, concrete, and tangible result, they are deemed to be statutory for failure to apply, involve, use, or advance the technological arts. In order to overcome this rejection, it is respectfully suggested that the claims be amended to expressly incorporate technology (i.e., a computer processor) as performing at least one of the steps of the invention. Appropriate correction is required.

### **Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims are rejected under 35 U.S.C. 103(a) as being unpatentable over Storch et al “Storch” (U.S. Patent No. 5,920,846) in view of Thompson et al “Thompson” (U.S. Patent No. 6,334,133).

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As per claims 1 and 7, Storch discloses a method and system for processing a service request comprising:

(a) providing a first organization having first personnel for performing services intended for a requestor of the services and having a first personnel control center for communicating with the first personnel (col. 12, lines 1-29);

(b) determining that the first personnel of the first organization are not available to provide the services requested by the requestor (col. 17, line 61 through col. 18 line 32),

(e) assigning the services requested by the requester to the second personnel (i.e. assigning the service request to the outside technician) col. 17, line 61 through col. 18 line 32 and col. 19 line 58 through col. 20 line 32); and

(f) communicating a service status from the second personnel to the first personnel control center (col. 24 lines 63 through 25 line 29).

Storch discloses all of the limitations above but fails to disclose the steps of providing a second organization having second personnel which are capable of performing the services requested by the requestor, determining that second personnel of the second organization can perform the services requested by the requester. Thompson in the same field of endeavor, discloses the concept of substituting and fulfilling workers for multiple client organizations ( Note abstract and col. 6 line 4 through col. 9 line 58. Therefore, it would have been obvious to a person of ordinary skill in the art to combine the disclosures of Storch with the teachings of Thompson in order to perform a substitute fulfillment for an organization that wishes to replace an employee during his or her absence.

As per claims 2, and 8, Storch further discloses wherein said first personnel control center

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comprises a personnel dispatch center (col. 9, lines 20-64).

As per claims 3, 9, Storch further discloses wherein said first personnel control center comprises a personnel network management facility (i.e. a computer data processing network environment) (col. 11, lines 57-67).

As per claims 4-6, and 10-12, the combination of Storch and Thompson fails to recite mobile communication, a satellite and a terrestrial-based wireless. Official Notice is taken is taken that is old and well known in the communication art to use a satellite, and a terrestrial-based wireless communication for communication messages and location of users. A person having ordinary skill in the art would have been motivated to incorporate these well-known communication medium into Storch and Thompson in order to facilitate easy communication between users of the system.

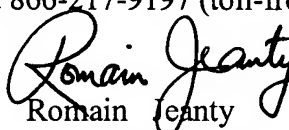
### **Conclusion**

7 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Romain Jeanty  
Primary Examiner  
Art Unit 3623

5/15/2005